MFSA MALTA FINANCIAL SERVICES AUTHORITY

Media Release

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MFSA Publishes Administrative Penalties Methodology for Credit Institutions

New Guidance Note introduces a transparent and proportionate framework for determining administrative penalties applicable to credit institutions.

The Malta Financial Services Authority (MFSA) has published a new Guidance Note outlining the methodology it will apply when determining administrative penalties imposed on credit institutions for breaches of regulatory requirements.

The Guidance Note establishes a clear, transparent and structured framework for the calculation of administrative penalties, reinforcing the Authority's commitment to ensuring that enforcement measures are proportionate, effective, consistent and dissuasive. The methodology applies to credit institutions authorised and supervised by the MFSA and, where relevant, to legal persons carrying out unauthorised banking activities.

The publication forms part of the MFSA's ongoing efforts to enhance regulatory transparency and provide stakeholders with greater clarity regarding its enforcement approach. By setting out the factors and processes considered when determining administrative penalties, the Guidance Note promotes a more consistent, proportionate and risk-sensitive approach to enforcement.

A Transparent Framework for Administrative Penalties

The methodology adopts a structured assessment process that takes into account both the severity of a regulatory breach and the size of the institution concerned.

In assessing the severity of a breach, the Authority considers a range of factors, including the impact and duration of the infringement, any profits gained or losses avoided, the effect on third parties, implications for effective supervision, and the extent of misconduct involved. Breaches are categorised across five levels of severity, ranging from Minor to Extremely Severe.

Ensuring Proportionality and Consistency

The framework also recognises the importance of proportionality by taking into account the financial strength and scale of the institution concerned. Administrative penalties are calibrated according to asset-based clusters, ensuring that sanctions remain effective and dissuasive while reflecting the institution's size and circumstances. Where profits gained or losses avoided through a breach can be reliably quantified, these may also be considered when determining the appropriate penalty.

The methodology further provides for adjustments based on aggravating and mitigating factors. These include voluntary disclosure of breaches, cooperation with the Authority, remedial measures undertaken by the institution, and its financial situation. The framework also incorporates safeguards to ensure that administrative penalties remain proportionate and do not jeopardise the financial viability of the institution concerned.

Supporting Greater Regulatory Transparency

The Authority emphasised that the Guidance Note provides transparency on the methodology followed when determining administrative penalties and should not be interpreted as a rigid or automatic penalty calculation mechanism. The MFSA retains discretion to take into account the specific circumstances of each case to ensure that any sanction imposed is proportionate and achieves its regulatory objectives.

About MFSA

The Malta Financial Services Authority (MFSA) is the single regulator of financial services in Malta, covering banks, insurance companies, investment services, trusts and pensions. In 2018, the MFSA became the first European regulator to develop a framework to regulate virtual financial assets. The MFSA's mission, as enshrined in its Strategic Statement, is to enhance its position as an independent, proactive and trustworthy supervisory authority with the main purpose of safeguarding the integrity of markets and maintaining stability within the financial sector, for the benefit and protection of consumers. The MFSA licenses over 2,000 entities to operate in the financial services sector.